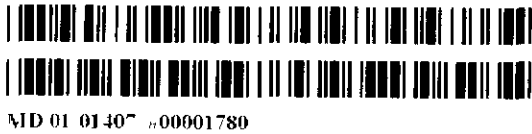


HONORABLE BARBARA J ROTHSTEIN



FILED ENTERED
LODGED RECEIVED

MAY 02 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY *VH* DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE Phenylpropanolamine (PPA) Products)
Liability Litigation)

No MDL 1407

CASE MANAGEMENT ORDER NO 13
CONCERNING IDENTIFICATION OF
DEFENDANTS AND PRODUCTS
INGESTED

This document relates to all actions

The cases currently pending in MDL 1407 assert the claims of individuals who allege to have ingested one or more PPA-containing products. Certain of these cases list numerous PPA manufacturers involved in MDL-1407, and the individual plaintiffs fail to state with specificity which products they allegedly ingested, and therefore fail to identify the manufacturers of those products that allegedly caused their injuries.

Notwithstanding the Proposed Case Management Order Concerning Severance of Multiple Plaintiff Cases in MDL-1407,

IT IS ORDERED, as follows

1 Counsel for all cases in which more than one manufacturing defendant was named on behalf of one or more plaintiffs who allege(s) personal injury from the alleged ingestion of a product containing PPA that are currently pending in MDL 1407 must serve and file within thirty (30) days of this Order, an affirmation on behalf of each individual plaintiff who allegedly ingested a product containing PPA setting forth the PPA product allegedly ingested by that plaintiff and the defendant or defendants whom that plaintiff claims

cc, counsel: BJK

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1 is the manufacturer of that product or those products (the "Affirmation"), a model of which is
2 attached as Exhibit A. The Affirmation may not allege any new factual allegations, additional
3 causes of action or add new defendants additional to those named in the pending complaint,
4 except as otherwise permitted under applicable laws or authority.

5 2 Counsel for all cases brought against more than one manufacturing defendant
6 on behalf of one or more plaintiffs who allege(s) personal injury from the alleged ingestion of
7 a product containing PPA that are docketed in MDL-1407 after the filing date of this Case
8 Management Order must file an Affirmation in compliance with the preceding paragraph 1
9 within thirty (30) days of the date on which the case is docketed in MDL-1407.

10 3 Upon the completion and service of the Affirmation by and on behalf of a
11 plaintiff, if the Affirmation fails to disclose the ingestion by such plaintiff of a PPA-containing
12 product manufactured and/or distributed by an identified defendant, then such defendant is
13 authorized to submit to the Court a Proposed Order of Dismissal with Prejudice with regard
14 to claims brought by that plaintiff submitting the Affirmation, as well as with regard to any
15 plaintiff whose claims are derivative of the plaintiff who alleges use of a PPA product.

16 4 Each Proposed Order of Dismissal with Prejudice shall be served upon
17 plaintiffs' liaison counsel and plaintiff's counsel of record and shall be accompanied by a copy
18 of the plaintiff's Complaint, all completed Plaintiff Fact Sheets on behalf of the plaintiff, if any,
19 the Affirmation and a statement by the defendant's attorney of record that the Affirmation and
20 the Plaintiff Fact Sheet, if any, contain no allegations that ingestion of the defendant's product
21 contributed to the cause of plaintiff's alleged injury.

22 5 If no opposition is submitted to the Proposed Order of Dismissal with
23 Prejudice within 10 days of service upon plaintiffs' liaison counsel and plaintiff's counsel of
24 record, then the Court shall enter an Order dismissing the moving defendant with prejudice, a
25 model of which is attached hereto as Exhibit B.

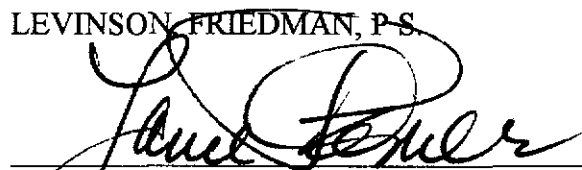
1 6 Nothing in this Order shall prevent defendants from seeking on a case-by-case
2 basis additional remedies or sanctions against any plaintiff with regard to discovery obligations
3 set out in this CMO, prior CMO's and/or identification of defendants' products in a Plaintiff
4 Fact Sheet

5 AND IT IS SO ORDERED

6
7 Dated May 1, 2003

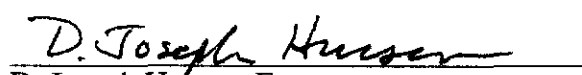

Barbara J. Rothstein
United States District Judge

9 LEVINSON, FRIEDMAN, P.S.

10 
11 Lance Palmer, Esq
12 Pacific Building
13 720 Third Avenue, Suite 1800
Seattle, Washington 98104

14 Plaintiffs' Liaison Counsel

15 LANE POWELL SPEARS LUBERSKY LLP

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17 
18 D. Joseph Hurson, Esq
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Seattle, Washington 98101

20 Defendants' Liaison Counsel
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HONORABLE BARBARA J ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE Phenylpropanolamine (PPA) Products)	No MDL 1407
Liability Litigation)	
-----)	[PROPOSED] ORDER OF DISMISSAL
)	WITH PREJUDICE
)	
This document relates to [caption of individual)	
case] _____)	

THIS MATTER came before the Court on Defendant _____ Motion for Dismissal with Prejudice from the above-entitled action pursuant to Case Management Order No _____. Having reviewed the Plaintiff's Complaint, all completed Plaintiff Fact Sheets (PFS) submitted by or on behalf of Plaintiff, the Affirmation submitted pursuant to Case Management Order No. _____, and a statement by the Defendant's attorney of record that the PFS and/or the Affirmation submitted pursuant to Case Management Order No _____, contains no allegations of ingestion of the Defendant's product, and Plaintiff having submitted no opposition within 10 days, the Court finds that Plaintiff has not alleged the ingestion of a PPA-containing product manufactured and/or distributed by Defendant _____.

IT IS HEREBY ORDERED that all remaining claims in the above-entitled action asserted by Plaintiff _____ against Defendant _____, only, are hereby dismissed with

[PROPOSED] ORDER OF DISMISSAL WITH
PREJUDICE - 1

Case No MDL 1407
019186 0028/1007368 1

LANE POWELL SPEARS LUBERSKY LLP
SUITE 4100
1420 FIFTH AVENUE
SEATTLE, WA 98101
(206) 223-7000

1 prejudice pursuant to Federal Rule of Civil Procedure 41 The parties shall bear their own
2 attorney's fees and costs

3 DATED this _____ day of _____, 2003
4
5

6 Barbara J Rothstein
7 United States District Judge
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[PROPOSED] ORDER OF DISMISSAL WITH
PREJUDICE - 2
Case No MDL 1407
019186 0028/1007368 1

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HONORABLE BARBARA J ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE Phenylpropanolamine (PPA) Products)
Liability Litigation)

No MDL 1407

[PROPOSED] AFFIRMATION OF
REGARDING PRODUCT
IDENTIFICATION

-----)
This document relates to [caption of individual)
case])

I, _____, an attorney duly admitted to practice law in the State of
_____ affirm, upon information and belief, that the following statements
are true under penalties of perjury

1 I submit this Affirmation pursuant to CMO # _____

2 Plaintiff _____ ingested _____ which he/she alleges
caused him/her to sustain personal injuries

3 Plaintiff _____ asserts that defendant _____ is the
manufacturer of the PPA containing medicine that is identified in paragraph 2

Counsel for Plaintiff _____

TO All counsel of record

[PROPOSED] AFFIRMATION OF _____
REGARDING PRODUCT IDENTIFICATION - 1

Case No MDL 1407

019186 0028/1007369 1

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